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OFFICE OF PETITIONS

In re Application of :
Shih :
Application No. 10/633,509 :
Filed: August 5, 2003 :
Attorney Docket No. W-9459-02 :

ON PETITION

This is a decision in response to the papers filed on September 7, 2005, and December 28, 2005, which are being treated as a petition under 37 CFR 1.137(a), or in the alternative, under 37 CFR 1.137(b). The papers are also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

The above-identified application was deemed abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed January 18, 2005. The application was considered to be abandoned as of February 19, 2005. A Notice of Abandonment was mailed on November 17, 2005.


Petitioner has established non-receipt of the Notice of Non-Compliant Amendment. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Although the paper filed September 7, 2005, requests the January 18, 2005 Notice be re-mailed, the papers filed December 28, 2005, include a response to the Notice. Therefore, the Office will assume no need exists for the January 18, 2005 to be re-mailed.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a), or in the alternative under 37 CFR 1.137(b), is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of \$500 will be credited back to petitioner's deposit account.

Technology Center Art Unit 1755 will be informed of the instant decision so that the examiner may further examine the application in due course.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.


Charles Steven Brantley
Petitions Attorney
Office of Petitions



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : December 27, 2005
Kneg-Yu Shih : Examiner: Jennine Brown
U.S. Serial No. 10/633,509 : Art Unit: 1755
Filed: August 5, 2003 : Docket No. W-9459-02
For: ACTIVE HETEROGENEOUS BI- or TRI-
DENTATE LIGAND/TRANSITION METAL
CATALYST

Commissioner of Patents
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12/29/2005 JADD01 00000101 071770 10633509
01 FC:1452 500.00 DA

Petition to Revive Abandoned Application
Under 37 CFR 1.137 (a)

This Petition is submitted in view of the Notice of Abandonment issued by the U.S. Patent Office on November 17, 2005 with respect to the above-identified application.

Attorney for Applicants petitions the Commissioner of Patents and the Director under the provisions of 37 CFR 1.137(a) to have the above-identified application revived and placed on the active docket of the U.S. Patent & Trademark Office for further prosecution of same. In the alternative, upon consideration of the present Petition by the Commissioner and the Director, if there is a decision that the present Petition is not proper under the provisions of 37 CFR 1.137(a), than Attorney for Applicant requests this Petition to be made under either 37 CFR 1.137(b) or 37 CFR 1.181

It is respectfully submitted that any delay in making a timely reply to a presumably issued Office Action dated 18 January 2005 was unavoidable on the part of Applicant in view of the fact that no such Office Action was formally or even informally received by Applicant, Attorney for Applicant, nor Legal Department of Applicant's employer prior to the expiration of the statutory reply period.

In view of the telephone conference with the Examiner and the faxed copy of the prior un-received Office Action, Attorney for Applicant submitted a Request for Re-Issuance of Un-Received Office Action. This paper was submitted in accordance with 37 CFR 1.181 and 1.134(c). The Request further included a corrected set of claims in compliance with the requirements of 37 CFR 1.121(c). Attached to and in support of said Request was Attachments A, B, C, D and E which correspond to Attachments B, C, D, E and the claims of Attachment G of the present Petition. A copy of the Request dated September 1, 2005 (without its Attachments) is submitted herewith as Attachment F.

Attorney for Applicant herewith submits, as Attachment G, a formal Letter of Reply to the presumably issued Notice of Non-Compliant Amendment. It is respectfully submitted that the claims objected to in said Notice ("Applicant has not amended the new claim [168] properly,...the text of the claim must not be underlined.") are herein submitted in accordance with 37 CFR 1.121(c).

Attorney for Applicant has awaited a reply to the submitted Request dated September 1, 2005 in order to promptly proceed forward in the most proper manner. It is presumed that the Notice of Abandonment dated November 17, 2005 is USPTO's reply to Applicant's Request.


Attorney for Applicant requests the Commissioner and the Director to invoke their supervisory authority to withdraw the holding of abandonment and to have the present application placed on the active rolls of applications subject to examination. Further, Attorney for Applicant requests the Commissioner and the Director to invoke their supervisory authority to enter the Letter of Reply submitted hereunder as Attachment G to supplement Applicant's Letter of Reply dated August 9, 2004.

The Commissioner and the Director are hereby authorized to charge Deposit Account 07-1770 the petition fee as set forth in 37 CFR 1.17(I). If the Commissioner and Director deem this Petition to be appropriate under another Section of CFR, they are authorized to:

- ☒ credit any overpayment
- ☒ charge any additional fee required.

A duplicate copy of this page is attached.

Respectfully submitted,


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cc: R. Woodruff (W.R. Grace)